

Town of Columbia

Docket No.: 18361-00RA

To assist the board in determining if the reassessment ordered by the board for tax year 2004 (see reassessment order dated February 4, 2001 (the “Order”)) has been satisfactorily performed in accordance with RSA 71-B:17, the board held a hearing on July 29, 2004 to receive information from the “Town” and its contract assessing firm, Avitar Associates of New England, Inc. (“Avitar”), relative to the sales analysis and assessment models created by Avitar during the 2004 reassessment. At the conclusion of the hearing, the board requested additional information consisting of several assessment-record cards of properties adjacent to sold properties and two items Avitar indicated should have been contained in the assessment manual: a rear land adjustment schedule and a spreadsheet relative to the basis of disqualified sales. The Town and Avitar filed those documents on August 10, 2004.

Based on the board’s review of the documents submitted prior and subsequent to the hearing, and the testimony of both Town officials and Avitar representatives, the board concludes that, on balance, despite some concerns discussed below, the reassessment has been satisfactorily performed. Consequently, pursuant to RSA 71-B:17, the board removes its Order.

As the board noted in its June 22, 2004 order, Avitar’s early completion of the reassessment in the spring/summer of 2004 allows the board to review the reassessment prior to

the Town's issuance of its final 2004 tax bills and warrants the waiving of the board's rules (see TAX 201.41) relative to its customary review procedure of an ordered reassessment outlined in TAX 208.06.

A number of factors combine to result in a favorable overall conclusion regarding the adequacy of the reassessment. First, the assessment models for both land and buildings (derived from sales and Avitar's utilization of general construction costs, modified by the local market) appear to be reasonably related to the market and to have been consistently applied during the reassessment. Also, as Avitar noted, it had performed assessment work in several nearby towns providing it a broader understanding of the real estate market in the Columbia vicinity.

Second, the Town officials and Avitar representatives stated they are planning and budgeting for an ongoing monitoring of assessments. They described this plan entailing, in addition to annual "pick ups" (new construction), an annual ratio study analysis to determine any need for assessment updates pursuant to RSA 75:8¹ and a five-year plan of reinspecting 20% of the property annually, concluding with a market analysis and complete reassessment in the fifth year. The Town's proactive plan addresses the statutory requirements of RSA 75:8 and 8-a to adjust assessments annually if needed and assess property at market value every five years. This process provides an opportunity for correction of assessment models if sales subsequent to the reassessment indicate such modification is needed.

There is a "catch 22" in this process, however, that relates to one of the board's concerns of the reassessment. For either the board, the Town or any entity to do a subsequent sales ratio

¹ An additional reason for waiving the board's rule TAX 208.06 of a subsequent sales ratio study, is that for one to be done, six to twelve months would need to transpire before an adequate number of sales are available to analyze. This timeframe mirrors the Town's plan to do the first of its annual ratio studies, and thus, little is gained by waiting those months for the board's review appraisers to do a subsequent sales ratio study. Any problems and potential remedies that a board ratio study might indicate would be prospective, and thus, likely similar to any revisions that Avitar would carry out for the Town based on its annual ratio study monitoring.

study to determine if any model modification or update is needed, there needs to be an adequate number of qualified sales in the sample to be analyzed. As the sales analyzed by Avitar for the reassessment indicate, of the 42 qualified sales, 27 were land only and 20 sales (19 unimproved, 1 improved) were entirely or largely assessed in current use (RSA Ch. 79-A). For these land sales to be utilized in any ratio study, for either RSA 75:8 update purposes or RSA 21-J:3, XIII equalization purposes, each property must have a meaningful ad valorem assessment made and maintained to be compared to the sale price.

Avitar representatives indicated that, while the sold properties with current use land had detailed land adjustment factors applied to them for calculating an ad valorem value in its reassessment ratio studies, such detailed review and adjustments likely did not occur for the unsold properties enrolled in current use. Thus, no meaningful ratio can be derived from subsequently sold current use properties. This is significant in a town such as Columbia because of the high percentage of properties (and thus, sales) that are assessed in current use. If Avitar's 12 to 15-month sample of 42 qualified sales (out of 71 total sales) is indicative of the Town's market activity and nearly 50% (20) are current use properties, that would indicate an annual qualified non-current use sample size of approximately 20 sales.² This small sample size and its composition raises questions as to its representativeness for the entire property population and any reliability of the resulting statistics for assessment update or indirect equalization purposes.

² The board reviewed the department of revenue administration's ("DRA") 2002 and 2003 equalization ratio studies to see if this significantly reduced sample size was an anomaly. It appears that it is not. The DRA's sample period for its 2002 equalization calculations contained a total of 85 sales of which only 26 (or 31%) were ultimately qualified and used in the ratio study. Of the total 85 sales, 43 (or 51%) were unimproved sales; yet of the 43 unimproved sales, only 6 (or 14%) were deemed qualified and used. Similarly for 2003, the sample size was 82 sales with only 24 (29%) sales qualified and used. Of the 82 sales 51 (or 62%) were unimproved sales but only 12 (or 24%) of the unimproved sales were qualified and used. If the composition of the total sales that occur (the sample) is assumed to be approximately representative of the mix of improved and unimproved sales in Columbia, then the high disqualification of unimproved sales, largely due to current use assessment, results in unrepresentative samples used in any ratio study.

“... [A] ratio study intended for market value estimation (indirect equalization) requires samples that are representative of the distribution of property *value* in the jurisdiction.” International Association of Assessing Officers, Standards on Ratio Studies, §3.1 (July 1999). “In general, a ratio study is valid to the extent that the sample is *representative* of the population In reviewing the representativeness of a sample, one should determine whether the sample proportionately reflects ratio-related property characteristics of the population of sold and unsold properties.” Id. at 5.5. See also Snow v. City of Rochester, 119 N.H. 181 (1979); and Friedman v. Exeter, 107 N.H. 163 (1966) (in performing a ratio study, a “fair cross section of the properties” within the municipality must be utilized in the sample to arrive at a reasonable ratio).

The board would recommend that the Town include in its five-year plan a program of producing meaningful ad valorem assessments on current use properties so that future ratio studies done for either assessment update or equalization purposes are inherently more representative and reliable.

Additional concerns relate to Avitar’s revaluation manual and sales analysis lacking an analysis that is compliant with the DRA’s Rev 600 rules, the contract between the Town and Avitar (“Contract”) and generally accepted appraisal standards. Rev 603.15(e)(5)c requires that “[t]he analysis portion of the sales survey shall show the sale price and support adjustments made;” and (f) requires that “[t]he completed sales survey shall: 1) [s]how the sales and analysis used to indicate unit values.” The Contract at paragraphs 3.4.2 and 3.4.6 contains similar requirements that the sales analysis be conducted “using accepted appraisal methods in order to determine land values . . .” and that any adjustments made in the analysis shall be noted. In addition to the general requirements in the Rev 600 rules and the Contract, the board notes that the Uniform Standards of Professional Appraisal Practice, Standard 6:Mass Appraisal,

Development and Reporting at rule 6-7 contains some general applicable requirements which in part state: “[e]ach written report of a mass appraisal must: . . . (b) contain sufficient information to enable the intended users of the appraisal to understand the report properly; . . . (k) describe and justify the model specification(s) considered, data requirements, and the model(s) chosen; . . . (m) describe calibration methods considered and chosen, including the mathematical form of the final model(s)”

The revaluation manual and sales analysis prepared by Avitar for the Town does satisfy most of the requirements of the Rev 600 rules and the Contract, including such things as a list of all the sales utilized, all the disqualified sales, tax maps with the sales identified and notations and adjustments on the assessment-record cards and tax maps made to those sales. However, the only “analysis” is a two-page discussion of several sales as to how the primary site and rear acre base rates were obtained or supported. As the Avitar representatives testified, the balance of any analysis is contained in the ratio studies for the different strata of the sales (e.g., vacant land sales, improved sales, etc.). Avitar testified the resulting low coefficient of dispersion (“COD”) indications of those ratios of 5.06 for all sales and 5.61 and 3.76 for unimproved and improved properties, respectively, indicate the models and adjustments made in the valuation of the sold properties are reflective of the market. However, as the board noted, and Avitar’s representatives agreed, such low CODs in a rural town with a relatively small sample of sales raise questions as to whether the assessments on the sold properties were tailored to conform to the sale price. However, both Avitar’s and the board’s review of the base prices and adjustments of land and buildings values fail to indicate any overt or systemic manipulation to produce low CODs.

The board also reviewed the assessment-record cards of a number of unsold properties adjacent to smaller land-only sales identified by Avitar and contained in its revaluation manual. The board finds relatively consistent application of the base rates and adjustments between the sold and the unsold properties and, thus, concludes Avitar's methodology was consistently applied to sold and unsold non-current use properties. However, as noted earlier, because nearly 50% of the sales contained in Avitar's ratio study were of current use properties and because unsold current use properties were not systematically assessed at ad valorem values, no comparison can be made of the unsold current use properties to determine consistency and appropriateness of base assessment models for rear land and their adjustments.

While neither the Rev 600 rules nor the Contract are explicit as to the exact form or style of analysis that should occur in the sales survey, both envision an analysis that documents the adjustments made to the sales and the resulting unit price(s) utilized in the assessment models. The rules do not indicate that reiterative ratio studies that produce the lowest CODs are a substitute for a clearly designed and understandable analysis of sales (perhaps in a spreadsheet format) that produces indicated unit prices or base rates for the major land value influencing factors. For instance, in this case, the documents submitted and the testimony by Avitar indicates that such major land factors are the primary base rate, the rear acre base rate and the major adjustments factors to those such as view or water influence. Such analyses would provide understandable and transparent documentation of how those major factors or base rates were derived.³ The application of such final correlated base rates or adjustments can then be tested through the use of overall and stratified ratio studies.

³ If sales don't exist to document such rates or adjustments, then at least a discussion as to the general experience and market observations obtained elsewhere would be instructive.

Some general findings the board made in two recent reassessment orders have application here also.

“[R]atio studies are appropriate tools to test the effectiveness of the base rates and adjustments derived from the sales analysis, but they are not, in and of themselves, a replacement for a thorough and well-documented sales survey. . . .

“A sales survey is a documented front-end analysis of sales that determines appropriate base rates and adjustments and then is utilized as a ‘roadmap’ in assessing all other properties that have not sold. No town official, taxpayer or subsequent assessor can determine with certainty what actual adjustments should be applied to established land base rates (either part of a computerized or manual system) if such a ‘roadmap’ is not documented in the assessment manual and analyzed in the required sales survey. The use of computer assessing software to assist mass appraisals should make the assessment process more transparent and understandable, rather than obfuscate the process and its details.”

Town of Wilmot, Docket No.: 19503-03RA, pp. 4-6.

“The board cannot emphasize enough the critical nature of documenting, reviewing and analyzing the sales, cost and income data to create the appraisal models (schedules) that are then applied in a consistent fashion to assess all properties. This documentation and analyses then become the ‘touchstone’ to the market for any subsequent revisions or additions that need to be made and, thus, ensures ongoing assessment consistency. The board believes part of the ‘appropriate enforcement measures’ that were enunciated in Sirrell v. State of New Hampshire, 146 N.H. 364 (2001), already exist with proper adherence to the DRA’s 600 rules. Certainly, if all reappraisals are based on a well-documented sales analysis accompanied by an appraisal manual presented in an understandable form and tied to an adaptable CAMA system, such a process would result in improved assessment consistency between taxing jurisdictions.”

Town of Milford, Docket No.: 17330-97RA, p. 12.

However, given all the other documents submitted in compliance with the DRA rules, the Town’s consistent application of assessment methodology and its ongoing planned program for maintaining assessment equity, the board finds the lack of a concise and understandable sales analysis in this case is not so fatal for the board to find the reassessment was not done satisfactorily.

In conclusion, the board finds the ordered reassessment has been performed satisfactorily, and thus, removes its Order.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Chairman

Douglas S. Ricard, Member

Albert F. Shamash, Esq., Member

Certification

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: Chairman, Board of Selectmen, Town of Columbia, Post Office Box 157, Colebrook, New Hampshire 03576; Avitar Associates of New England, Inc., Post Office Box 981, Epsom, New Hampshire 03234, assessing contractor for the Town; Mark J. Bennett, Esq., Department of Revenue Administration, 57 Regional Drive, Concord, New Hampshire 03302, counsel for the DRA; and Guy Petell, Department of Revenue Administration, 57 Regional Drive, Concord, New Hampshire 03302, Interested Party.

Date: August 24, 2004

Anne M. Stelmach, Deputy Clerk